

**Administrator.** The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

**Animal and Plant Health Inspection Service.** The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS).

**Certificate.** A document in which an inspector or person operating under a compliance agreement affirms that a specified regulated article is free of Mediterranean fruit fly and may be moved interstate to any destination.

**Commercially produced.** Fruits and vegetables that an inspector identifies as having been produced for sale and distribution in mass markets. Such identification will be based on a variety of indicators, including, but not limited to: Quantity of produce, monocultural practices, pest management programs, good sanitation practices including destruction of culls, type of packaging, identification of grower or packing house on the packaging, and documents consigning the shipment to a wholesaler or retailer.

**Compliance agreement.** A written agreement between APHIS and a person engaged in growing, handling, or moving regulated articles, wherein the person agrees to comply with the provisions of this subpart.

**Core area.** The 1 square mile area surrounding each property where Mediterranean fruit fly has been detected.

**Day degrees.** A mathematical construct combining average temperature over time that is used to calculate the length of a Mediterranean fruit fly life cycle. Day degrees are the product of the following formula, with all temperatures measured in °F: [(Minimum Daily Temp + Maximum Daily Temp)/2] – 54° = Day Degrees.

**Drip line.** The line around the canopy of a plant.

**Infestation.** The presence of the Mediterranean fruit fly or the existence of circumstances that make it reasonable to believe that the Mediterranean fruit fly is present.

**Inspector.** Any employee of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person authorized by the Administrator to enforce this subpart.

**Interstate.** From any State into or through any other State.

**Limited permit.** A document in which an inspector or person operating under a compliance agreement affirms that the regulated article identified on the document is eligible for interstate movement in accordance with § 301.78-5(b) of this subpart only to a specified destination and only in accordance with specified conditions.

**Mediterranean fruit fly.** The insect known as Mediterranean fruit fly *Ceratitis capitata* (Wiedemann) in any stage of development.

**Moved (Move, Movement).** Shipped, offered for shipment, received for transportation, transported, carried, or allowed to be moved, shipped, transported, or carried.

**Person.** Any association, company, corporation, firm, individual, joint stock company, partnership, society, or other entity.

**Quarantined area.** Any State, or any portion of a State, listed in § 301.78-3(c) of this subpart or otherwise designated as a quarantined area in accordance with § 301.78-3(b) of this subpart.

**Regulated article.** Any article listed in § 301.78-2(a) or (b) of this subpart or otherwise designated as a regulated article in accordance with § 301.78-2(c) of this subpart.

**State.** The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory or possession of the United States.

[56 FR 57576, Nov. 13, 1991; 56 FR 63550, Dec. 4, 1991; 62 FR 33538, June 20, 1997; 62 FR 47556, Sept. 10, 1997]

#### § 301.78-2 Regulated articles.

The following are regulated articles:

(a) The following berries, fruits, nuts, and vegetables.

Almond with husk (*Prunus dulcis* (*P. amygdalus*))  
 Apple (*Malus sylvestris*)  
 Apricot (*Prunus armeniaca*)  
 Avocado (*Persea americana*)  
 Black Myrobalan (*Terminalia cherbula*)  
 Cherries (sweet and sour) (*Prunus avium*, *P. cerasus*)  
 Citrus citron (*Citrus medica*)  
 Date (*Phoenix dactylifera*)  
 Eggplant (*Solanum melongena* L.), other than commercially produced eggplant

§ 301.78-3

7 CFR Ch. III (1-1-00 Edition)

Fig (*ficus carica*)  
 Grape (*Vitis* spp.)  
 Grapefruit (*Citrus paradisi*)  
 Guava (*Psidium guajava*)  
 Japanese persimmon (*Diospyros kaki*)  
 Japanese plum (*Prunus salicina*)  
 Kiwi (*Actinidia chinensis*)  
 Kumquat (*Fortunella japonica*)  
 Lemon (*Citrus limon*) except smooth-skinned lemons harvested for packing by commercial packing houses.  
 Lemon, Meyer (*Citrus limon* X *reticulata*)  
 Lemon, Rough (*Citrus jambhiri*)  
 Lime, sweet (*Citrus aurantiifolia*)  
 Loquat (*Eriobotrya japonica*)  
 Mandarin orange (*Citrus reticulata*) (tangerine)  
 Mango (*Mangifera indica*)  
 Mock orange (*Murraya exotica*)  
 Mountain apple (*Syzigium malaccense* (*Eugenia malaccensis*))  
 Natal plum (*Carissa macrocarpa*)  
 Nectarine (*Prunus persica* var. *nectarina*)  
 Olive (*Olea europea*)  
 Opuntia cactus (*Opuntia* spp.)  
 Orange, calamondin (*Citrus reticulata* x. *Fortunella*)  
 Orange, Chinese (*Fortunella japonica*)  
 Orange, king (*Citrus reticulata* x. *C. sinensis*)  
 Orange, sweet (*Citrus sinensis*)  
 Orange, Unshu (*Citrus reticulata* var. *Unshu*)  
 Papaya (*Carica papaya*)  
 Peach (*Prunus persica*)  
 Pear (*Pyrus communis*)  
 Pepper (*Capsicum frutescens*, *C. annuum*)  
 Pineapple guava (*Feijoa sellowiana*)  
 Plum (*Prunus americana*)  
 Pomegranate (*Punica granatum*)  
 Prune (*Prunus domestica*)  
 Pummelo (*Citrus grandis*)  
 Quince (*Cydonia oblonga*)  
 Rose apple (*Eugenia jambos*)  
 Sour orange (*Citrus aurantium*)  
 Spanish cherry (Brazilian plum) (*Eugenia dombeyi* (*E. brasiliensis*))  
 Strawberry guava (*Psidium cattleianum*)  
 Surinam cherry (*Eugenia uniflora*)  
 Tomato (pink and red ripe) (*Lycopersicon esculentum*)  
 Walnut with husk (*Juglans* spp.)  
 White sapote (*Casimiroa edulis*)  
 Yellow oleander (Bestill) (*Thevetia peruviana*)

Any berries, fruits, nuts, or vegetables that are canned or dried or frozen

below -17.8 °C. (0 °F.) are not regulated articles.

(b) Soil within the drip area of plants that are producing or have produced the berries, fruits, nuts, or vegetables listed in paragraph (a) of this section.

(c) Any other article, product, or means of conveyance, not covered by paragraphs (a) or (b) of this section, that presents a risk of spread of the Mediterranean fruit fly and an inspector notifies the person in possession of it that the article, product, or means of conveyance is subject to the restrictions of this subpart.

[56 FR 57576, Nov. 13, 1991, as amended at 59 FR 25791, May 18, 1994; 62 FR 33538, June 20, 1997; 62 FR 47556, Sept. 10, 1997]

§ 301.78-3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Administrator shall list as a quarantined area in paragraph (c) of this section, each State, or each portion of a State, in which the Mediterranean fruit fly has been found by an inspector, in which the Administrator has reason to believe that the Mediterranean fruit fly is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities in which the Mediterranean fruit fly has been found. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are equivalent to those imposed by this subpart on the interstate movement of regulated articles; and

(2) The designation of less than the entire State as a quarantined area will prevent the interstate spread of the Mediterranean fruit fly.

(b) The Administrator or an inspector may temporarily designate any nonquarantined area in a State as a quarantined area in accordance with the criteria specified in paragraph (a) of this section for listing such area. The Administrator will give a copy of this regulation along with a written notice of this temporary designation to the owner or person in possession of the nonquarantined area; thereafter,